# FACSIMILE TRANSMISSION



**FROM:** Charles B. Cappellari
Gen-Probe Incorporated
Patent Department
10210 Genetic Center Drive
San Diego, California 92121
Phone No. (858) 410-8927
Facsimile No. (858) 410-8928

**TO:** **Examiner: Chakrabarti, A.**
Group 1634
U.S. Patent & Trademark Office
Facsimile No. (703) 872-9306

**Number of pages (including this cover page): 3**



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|---|---|
| In re Patent Application of: | Group Art Unit: 1634 |
| BECKER | Examiner: Chakrabarti, A. |
| Serial No. 10/020,596 | Confirmation No. 6565 |
| Filed: December 7, 2001 | Atty. Docket No. GP123-02.UT |
| For: METHOD AND KITS FOR ENHANCING THE ASSOCIATION RATES OF POLYNUCLEOTIDES | Date: April 21, 2003 |

Transmitted herewith:

**Response to Restriction Requirement (2 pgs.).**

**CERTIFICATE OF TRANSMISSION**

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Date: April 21, 2003

By: _____

Charles B. Cappellari, Reg. No. 40,937

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| For: METHOD AND KITS FOR ENHANCING THE ASSOCIATION RATES OF POLYNUCLEOTIDES | ) | **VIA FACSIMILE** |

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents
Washington, D.C. 20231

Sir:

In an Office Action mailed on March 25, 2003 in the above-captioned application, the Examiner required restriction under 35 U.S.C. § 121 to the invention of claims 1-36 (Group I), claims "drawn to a method of nucleic acid hybridization," or claims 37-60 (Group II), claims "drawn to a kit comprising nucleic acids." In support of this restriction requirement, the Examiner argues that the "nucleic acids of Group II . . . can be used to make RNA or protein or can be used to make antisense nucleic acids for gene therapy." Applicants respectfully traverse this rejection on the ground that the Examiner has failed to establish that the components of the claimed kits can be used for the alternative purposes suggested by the Examiner, as required by MPEP § 806.05(h) at 800-46 (8th ed., Aug. 2001). Specifically, the Examiner has failed to consider that the claimed kits of Group II include, in addition to a polynucleotide probe, a synthetic polymer which is provided in an mount sufficient to increase the association rate of the probe and a target nucleic acid. Thus, Applicants submit that the Examiner's restriction requirement improperly fails to consider all the limitations of the claims and, accordingly, should be withdrawn for failing to provide a viable alternative use for the components of the claimed kits. *See* MPEP § 806.05(h) at 800-46 ("the burden is on the examiner to support a viable alternative use or withdraw the restriction requirement").

RESPONSE

Serial No. 10/020,596
Atty. Docket No. GP123-02.UT

In accordance with the provisions set forth in 37 C.F.R. § 1.143, Applicants hereby provisionally elect the claims of Group I for prosecution.

**Certificate of Transmission**

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Respectfully submitted,

Date: April 21, 2003

By: _____
Charles B. Cappellari
Registration No. 40,937
Attorney for Applicants

GEN-PROBE INCORPORATED
Patent Department
10210 Genetic Center Drive
San Diego, California 92121
PH: 858-410-8927
FAX: 858-410-8928